

§ 409.20

42 CFR Ch. IV (10–1–99 Edition)

(1) States the reasons for the determination;

(2) Grants the provider 45 days from the date of the notice to submit the information or evidence showing that the determination is in error; and

(3) Informs the provider of its right to hearing.

(d) *Right to hearing.* If the denial of payment determination goes into effect at the expiration of the 45-day period, it constitutes an “initial determination” subject to administrative and judicial review under part 498 of this chapter.

[56 FR 8840, Mar. 1, 1991; 56 FR 23022, May 20, 1991]

Subpart C—Posthospital SNF Care

§ 409.20 Coverage of services.

(a) *Included services.* Subject to the conditions and limitations set forth in this subpart and subpart D of this part, “posthospital SNF care” means the following services furnished to an inpatient of a participating SNF, or of a participating hospital or critical access hospital (CAH) that has a swing-bed approval:

(1) Nursing care provided by or under the supervision of a registered professional nurse.

(2) Bed and board in connection with the furnishing of that nursing care.

(3) Physical, occupational, or speech therapy.

(4) Medical social services.

(5) Drugs, biologicals, supplies, appliances, and equipment.

(6) Services furnished by a hospital with which the SNF has a transfer agreement in effect under § 483.75(n) of this chapter.

(7) Other services that are generally provided by (or under arrangements made by) SNFs.

(b) *Excluded services*—(1) *Services that are not considered inpatient hospital services.* No service is included as posthospital SNF care if it would not be included as an inpatient hospital service under §§ 409.11 through 409.18.

(2) *Services not generally provided by (or under arrangements made by) SNFs.* Except as specifically listed in §§ 409.21 through 409.27, only those services generally provided by (or under arrangements made by) SNFs are considered as

posthospital SNF care. For example, a type of medical or surgical procedure that is ordinarily performed only on an inpatient basis in a hospital is not included as “posthospital SNF care,” because such procedures are not generally provided by (or under arrangements made by) SNFs.

(c) *Terminology.* In §§ 409.22 through 409.36—

(1) The terms *SNF* and *swing-bed hospital* are used when the context applies to the particular facility.

(2) The term *facility* is used to mean both SNFs and swing-bed hospitals.

(3) The term “swing-bed hospital” includes a CAH with swing-bed approval under subpart F of part 485 of this chapter.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30667, May 26, 1993; 63 FR 26306, May 12, 1998; 64 FR 3648, Jan. 25, 1999; 64 FR 41681, July 30, 1999]

§ 409.21 Nursing care.

(a) *Basic rule.* Medicare pays for nursing care as posthospital SNF care when provided by or under the supervision of a registered professional nurse.

(b) *Exception.* Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is an SNF employee at the time the services are furnished.

[63 FR 26306, May 12, 1998]

§ 409.22 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts Medicare Part A pays in full for semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations*—(1) *Conditions for payment in full.* Except for applicable coinsurance amounts, Medicare pays in full for a private room if—

(i) The patient's condition requires him to be isolated;

(ii) The SNF has no semiprivate or ward accommodations; or

(iii) The SNF semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the SNF for treatment of a condition that required immediate inpatient SNF

care, and have been so occupied during the interval.

(2) *Period of payment.* In the situations specified in paragraph (b)(1) (i) and (iii) of this section. Medicare pays for a private room until the patient's condition no longer requires isolation or until semiprivate or ward accommodations are available.

(3) *Conditions for patient's liability.* The facility may charge the patient the difference between its customary charge for the private room furnished and its most prevalent charge for a semiprivate room if:

- (i) None of the conditions of paragraph (b)(1) of this section is met, and
- (ii) The private room was requested by the patient or a member of the family who, at the time of request was informed what the charge would be.

§ 409.23 Physical, occupational, and speech therapy.

Medicare pays for physical, occupational, or speech therapy as posthospital SNF care if—

- (a) It is furnished by the facility or under arrangements made by the facility, and
- (b) Billing for the therapy is by or through the facility.

§ 409.24 Medical social services.

Medicare pays for medical social services as posthospital SNF care, including—

- (a) Assessment of the social and emotional factors related to the beneficiary's illness, need for care, response to treatment, and adjustment to care in the facility;
- (b) Case work services to assist in resolving social or emotional problems that may have an adverse effect on the beneficiary's ability to respond to treatment; and
- (c) Assessment of the relationship of the beneficiary's medical and nursing requirements to his or her home situation, financial resources, and the community resources available upon discharge from facility care.

[63 FR 26306, May 12, 1998]

§ 409.25 Drugs, biologicals, supplies, appliances, and equipment.

- (a) *Drugs and biologicals.* Except as specified in paragraph (b) of this sec-

tion, Medicare pays for drugs and biologicals as posthospital SNF care only if—

- (1) They represent a cost to the facility;
- (2) They are ordinarily furnished by the facility for the care and treatment of inpatients; and
- (3) They are furnished to an inpatient for use in the facility.

(b) *Exception.* Medicare pays for a limited supply of drugs for use outside the facility if it is medically necessary to facilitate the beneficiary's departure from the facility and required until he or she can obtain a continuing supply.

(c) *Supplies, appliances, and equipment.* Except as specified in paragraph (d) of this section, Medicare pays for supplies, appliances, and equipment as posthospital SNF care only if they are—

- (1) Ordinarily furnished by the facility to inpatients; and
- (2) Furnished to inpatients for use in the facility.

(d) *Exception.* Medicare pays for items to be used after the individual leaves the facility if—

- (1) The item is one that the beneficiary must continue to use after leaving, such as a leg brace; or
- (2) The item is necessary to permit or facilitate the beneficiary's departure from the facility and is required until he or she can obtain a continuing supply, for example, sterile dressings.

[63 FR 26307, May 12, 1998]

§ 409.26 Transfer agreement hospital services.

(a) *Services furnished by an intern or a resident-in-training.* Medicare pays for medical services that are furnished by an intern or a resident-in-training (under a hospital teaching program approved in accordance with the provisions of § 409.15) as posthospital SNF care, if the intern or resident is in—

- (1) A participating hospital with which the SNF has in effect an agreement under § 483.75(n) of this chapter for the transfer of patients and exchange of medical records; or
- (2) A hospital that has a swing-bed approval, and is furnishing services to an SNF-level inpatient of that hospital.